

**JAN 19 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

GURMAIL SINGH,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-72613

Agency No. A79-281-887

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted January 9, 2006<sup>\*\*</sup>

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Gurmail Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") summary decision affirming the immigration judge's ("IJ") denial of his applications for asylum, withholding of

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal, and relief under the Convention Against Torture (“CAT”). We lack jurisdiction to review the IJ’s determination that Singh failed to file a timely asylum application. *See Ramadan v. Gonzales*, 427 F.3d 1218, 1222 (9th Cir. 2005).

We have jurisdiction under 8 U.S.C. § 1252 to review the denial of withholding of removal and CAT relief. We review for substantial evidence an adverse credibility determination, *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001), and deny the petition.

Substantial evidence supports the IJ’s adverse credibility finding because Singh’s testimony regarding the location of and circumstances surrounding his arrests were inconsistent and went to the heart of his asylum claim. *See id.* at 1043. Accordingly, he is not eligible for withholding of removal. *See Li v. Ashcroft*, 378 F.3d 959, 964 (9th Cir. 2004). Singh’s CAT claim also fails because it is based on the same testimony that the IJ concluded was incredible. *See Farah v. Ashcroft*, 348 F.3d 1153, 1157 (9th Cir. 2003).

**DISMISSED in part and DENIED in part.**